

**California Debt and Investment
Advisory Commission
Fundamentals of Land Secured Financing**

Introduction

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Session I

*Basic Structures of Assessment and
Community Facilities Districts*

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Session II

Pre-Formation Considerations

Local Goals and Policies

- Legal Requirement for CFD's
(Gov't code §53312.7)
- Good Idea for AD's
- Why important - to provide:
 - Guidance
 - Consistency
 - Assurances

Key Issues to Cover in Policies

- Facilities Priority & Eligibility
- Disclosure to:
 - Prospective Property Purchasers
 - Bond Buyers
 - Financial Markets
- Appraisal Criteria/Value-to-Lien
- Application Process
- Credit Quality Requirements/Criteria

Acquisition vs. Construction

- ACQUISITION: Developer builds improvements and “sells” them
- CONSTRUCTION: Public Agency builds



Selecting the Team

- Public Agency should choose consultants
- Financial Advisor can help
- RFP Process / Consultant Pool
- Mello-Roos / Assessment District
Experience is a key



Consultant Roles

Bond Counsel: Legal Opinion

Financial Advisor: Guidance & Market Knowledge

Special Tax Consultant: Tax Formula, Financing Plan &/or CFD Report

Assessment Engineer: Benefit Finding and Engineer's Report



Consultant Roles

Market Consultant: Absorption Study

Appraiser: Determines Value



Important Considerations

- Communication among members
- Facilitation of meetings
- Involve Counsel - legal protection
- Understand structure and associated workload
(you will have to live with these decisions)



Other Agencies/Utilities Coordination

- Jurisdictional overlap
- Who will own and operate facilities?
- Joint Community Facilities Agreements required for CFD's
- Consent of legislative body required for CFD's and AD's



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Session III

District Formation Process

Formation Process

- LET'S GET MARRIED
 - *Petition*
- I'LL THINK ABOUT IT
 - *Resolution of Intention / Boundary Map*
 - *CFD Rate & Method of Apportionment*
 - *AD Engineer's Report (including assessment spread)*
- LET'S TALK ABOUT IT
 - *Public Hearing*
 - *AD Ballot Tabulation*
- THE WEDDING DAY
 - *Resolution of Formation*
 - *CFD Election*



AD vs. CFD

- Assessment District
 - Sets a Fixed Lien for Every Parcel
 - Annual Payment Reduces Lien
 - Term of Payments = Term of Bonds
- Community Facilities District
 - Sets a Maximum Annual Special Tax Rate
 - Max. Tax Rate may Escalate
 - Term of Tax may Outlive Term of Bonds

Rate and Method of Apportionment

- Approved by public agency at ROF and by 2/3 vote of qualified electors
- Describes methodology used to calculate the annual special tax levy

Rate and Method of Apportionment

- Special Tax Requirement
 - Interest and principal on bonds
 - Authorized facilities (pay-as-you-go)
 - Authorized services
 - Replenish reserve fund
 - Administrative expenses

Objectives in Designing Special Tax Formulas: Developed Property Special Tax

- Applies to parcels after issuance of building permit, recordation of map, or other defined event
- Can be spread based on benefit or market considerations, not property value (must be “reasonable”)
- Categories based on: land use, size of home, type of home, lot size

Objectives in Designing Special Tax Formulas: Developed Property Special Tax

- Must provide 110% gross debt service coverage at buildout
- Maximum tax must take into account marketing and public policy limitations; generally 2.0% of property value
- Should be stable and generally unaffected by development risk

Objectives in Designing Special Tax Formulas:

Undeveloped Property Special Tax

- Applies to parcels that do not yet meet definition of “Developed Property”
- Typically charged on a per-acre basis
- Ensures a minimum of 110% gross debt service coverage before buildout
- Must provide coverage under worst-case scenario
- Should absorb variability in special tax levy

Objectives in Designing Special Tax Formulas: Additional Items to Consider

- Rate of Escalation (2% or level)
- Order of Levy
- Backup Special Tax
- Cross-Collateralization
- Prepayment Formula
- Maintenance Special Tax

Engineer's Report

S&H Code §10204 (1913 Act)

- Plans & Specifications
- Estimate of Costs
- Assessment Diagram
- Assessment Methodology
- Assessment Roll
- Annual Administration Costs

Engineer's Report

S&H Code §2960 (1931 Debt Limitation Act)

- Total principal amount of Unpaid Assessments on parcels
- Total true value of parcels
- Total Lien / Value
(must be less than 50%, by Code)

Engineer's Report

- Key information document in a dispute
- Prepared by a Registered Prof. Engineer
- Proposition 218 requirements
 - Special Benefit should be clearly defined
 - General Benefit should be discussed
 - Assessment spread clearly detailed
 - Special treatment of public parcels should be discussed

CFD Special Election Process

- Conducted after Reso. of Formation
- This *IS* an election under the Elections Code
- Weighted by property area
(if fewer than 12 registered voters)
- 2/3 must vote “yes”
(registered voters or area)

Assessment Ballot Process

- Required by Proposition 218
- Mailed with Notice of Public Hearing
- This is **NOT** an election,
NOT a secret ballot
- Ballots opened and tallied after hearing
- Weighted by assessment amount
- More “no” than “yes”, no assessment

Assessment Process After Formation

- Recordation of Notice of Assessment
- 30-Day Cash Collection Period
 - Mailed Notice to Pay Assessment
 - Cash payment discount
 - Paid / Unpaid List

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Session IV

Project Implementation

Construction or Acquisition ?

- Construction Project:
 - Issuer constructs project
 - Bond proceeds pay costs as needed
- Acquisition Project:
 - Developer/Owner constructs improvements (must front the costs)
 - Issuer to “purchase” (acquire) with bond proceeds



Developer Constructs Improvements

- Acquisition Agreement specifies how (construction and purchase processes)
 - Vertical vs. Horizontal
 - Completed Facility vs. Progress Payments
 - Other specifications and requirements
 - Competitive bidding
 - Prevailing wage
 - Inspection
 - Insurance
 - Local agency review of Plans & Specs



Developer Constructs Improvements

- Requirements for Developer to get paid:
 - Contracts, invoices & canceled checks
 - Evidence of transfer of title
 - Evidence of acceptance of improvements
 - Lien releases from contractor and subs
 - Amount within limits of Agreement



Issuer Constructs Improvements

- Expand working group to include:
 - Public Works staff
 - Representatives from other local agencies
 - Design engineer / environmental consultant
 - Contract administrator / inspectors
 - Real property appraiser



Issuer Constructs Improvements

- Project Design
- Property Acquisition
- Environmental Clearance
- Review and Approval of Plans & Specs
- Solicitation of Sealed Bids



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Session V

Bond Issuance

Bond Issuance

- LET'S HAVE A BABY!
- CAN WE AFFORD IT?
 - *Financial Feasibility*
 - *Appraisal - 3:1 Value-to-Lien Ratio*
- HOW DO WE DO IT?
 - *Resolution of Issuance*
 - *Bond Indenture*
 - *Preliminary Official Statement (POS)*
 - *Purchase Agreement*
 - *Continuing Disclosure Agreement(s)*



Financing Team

Issuer & Initial Consultants, plus:

Disclosure Counsel: Offering Documents,
Initial & Continuing
Disclosure Deal

Underwriter*: Structure & Sale

Underwriter Counsel*: Bond Purchase
Agreement & Legal
Support



* if negotiated sale

Topics of Discussion

- Special Tax Coverage
- Tax Delinquencies
- Undeveloped and Developed Land Values
- Analysis of Direct and Overlapping Debt

Sharing of Taxing Capacity - CFDs

- Total taxes not to exceed 2% of value
- 1% is for ad valorem property taxes
- Value-to-lien constraint
- Make sure all public agencies are brought to the table



Topics of Discussion

- Additional Security
- Bond Covenants
- Developer Capability

Timing of Bond Issues

- Phasing of Facility Construction
- Value-to-lien considerations
- Election and Assessor's Roll Timing
- Multiple Series Phased Bond Issues / Escrow Releases / Refundings



Bond Disclosure

- LET'S TELL OUR FRIENDS

- *Preliminary Official Statement*
- *Tell the truth, the whole truth and nothing but the truth*

- WHAT DO WE SAY

- *Disclose all facts important to investor*
- *Bond terms*
- *Appraisal*
- *Developer's Financing Plan*
- *Special Tax Formula / Assessment Spread*
- *Land use entitlements / Risks*
- *Real estate market risks*



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Session VI

Administration of Liens and Bonds

Administration - Basic Steps

- Know your CFD / AD
- Be active prior to issuance
- Manage the funds
- Meet administrative obligation
- Customer service



Preparing CFD / AD Levy

- Know your tax formula / assessment spread
- Update parcels & “development status”
- Allocate parcels to tax categories (CFD)
- Determine special tax requirement (CFD)
- Assessment Apportionments (AD)
- Determine debt service & admin costs (AD)
- Submit to Auditor's office



Delinquency Management

- Accelerated judicial foreclosure
- The delinquency process
 - Strip special tax / assessment levy off roll
 - Notice to delinquent owners
- Foreclosure Counsel
- Thresholds



Continuing Disclosure

- SEC Rule 15c2-12
- Obligated Persons - Issuer & Developer
- What to disclose
 - Material events
 - Items in Continuing Disclosure Certificate
- Disclosure Counsel relationship
- Information Repositories - NRMSIRs
- Reports must be filed on time!



Annual Special Tax Report - CFD

- Summary of development
- Summary of account balances
- Status of improvements
- Summary of financial obligations
- List of parcels and levy
- CDIAC requirements



Other Administrative Items

- Arbitrage rebate calculation
- Reconcile bank statements
- Disbursing/Investing Bond Proceeds
- Prepayment calculations
- Record release of special tax / assessment lien
- Reimbursement for facility construction
- Changes of ownership in the bonds



Consultants or Staff

- Staff's experience
- Evaluation of workloads
- Number of districts
- Complexity of districts
- Combined approach

